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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,501	09/21/2005	Paul M. Fowler	65856-0075	9997
10291 7590 11/16/2007 RADER, FISHMAN & GRAUER PLLC 39533 WOODWARD AVENUE SUITE 140 BLOOMFIELD HILLS, MI 48304-0610			EXAMINER LEWIS, TISHA D	
			ART UNIT 3681	PAPER NUMBER
			MAIL DATE 11/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,501

Applicant(s)

FOWLER ET AL.

Examiner

TISHA D. LEWIS

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-13, 15, 16 and 18-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-7, 9, 15, 16, 18, 24 and 25 is/are allowed.
- 6) ☒ Claim(s) 1-4, 10-13, 19, 23, 27 and 29 is/are rejected.
- 7) ☒ Claim(s) 20-22, 26 and 28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

The following is a response to the amendment received on August 31, 2007 which has been entered.

Response to Amendment

Claims 1-7, 9-13, 15, 16 and 18-29 are pending in the application. Claims 8, 14 and 17 are cancelled.

-The 102(b) and 103(a) rejection of claims 5-7 and 9 has been withdrawn due to applicant amending claim 5 with limitations not disclosed by the prior art of record used in the rejection.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive. As to applicant's arguments that the Wheeler reference doesn't use a throttle parameter to determine clutch operation: Although the throttle parameter in Wheeler is used indirectly, the throttle parameter is used in conjunction with other parameters to determine clutch operation and therefore would still be considered a parameter used to determine clutch operation, because without it in the Wheeler reference, the clutch operation would not be able to be determined (Figure 4 uses throttle according to predetermined reference value). As to claim 19, Fuel rate is indirectly used to determine clutch operation with other parameters as stated above for the throttle parameter. As to claims 2 and 11, the phrase "throttle device displacement" as used in claim 1 of Wheeler can still be associated with the phrase "throttle application rate" as claimed in 2 and 11.

Applicant's arguments with respect to claims 3 and 12 have been fully considered and are persuasive. The 103(a) rejection of claims 3 and 12 has been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 10, 11, 13, 19, 23 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Wheeler et al (6,445,992). Wheeler et al discloses a clutch control determining a throttle operating parameter value (THL), comparing the value to a threshold value (first reference value), setting an operating mode of the clutch based on the throttle comparison (command clutch to engage), the parameter value corresponds to a throttle position, determining a vehicle operating condition (vehicle speed), comparing the condition to a predetermined limit (second reference value) and setting the operating mode based on the comparison (Figure 4), an electronic control unit (34) receives signals for the throttle parameter and controls the operating mode of the clutch, determining a desired fueling rate of the engine (a fuel rate is controlled by the throttle position which has a predetermined value (first reference value) and setting the engagement rate of the clutch based on the desired rate (engagement will have the same torque transfer capacities as the drive torque).

Claims 1, 3, 4, 10, 12, 13, 19, 23, 27 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Ward et al (5,383,823). Ward et al discloses a clutch control determining a throttle operating parameter value (THL), comparing the value to a threshold value (first reference value), setting an operating mode of the clutch based on the throttle comparison (command clutch to engage or disengage, column 2, lines 8-12), the parameter value corresponds to a throttle position, the clutch engagement is rapidly increased according to the throttle operating parameter increasing (form 0% to 100%), determining a vehicle operating condition (engine or vehicle speed), comparing the condition to a predetermined limit and setting the operating mode based on the comparison (Figure 2), the fuel rate is determined when the throttle parameter is determined, therefore; fuel rate would also control engagement of the clutch.

Allowable Subject Matter

Claims 5-7, 9, 15, 16, 18, 24 and 25 are allowed.

Claims 20-22, 26 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TISHA D. LEWIS whose telephone number is 571-272-7093. The examiner can normally be reached on M-F 7:30 AM TO 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHARLES A. MARMOR can be reached on 571-272-7095. The fax phone


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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tdl
November 13, 2007


TISHA LEWIS
PRIMARY EXAMINER
AU 3681 11/13/07